

REMARKS

Applicant respectfully requests reconsideration of this application in view of the above amendments and the following remarks.

Claims 1-11, 13 and 14 have been amended; Claim 12 has been canceled without prejudice; and new Claims 15-18 have been added. Claims 1-11 and 13-18 are presented for further prosecution on the merits.

I. SUMMARY OF OFFICE ACTION

The Examiner objected to Claim 12 under 37 C.F.R. §1.75(c) as being of improper dependent form for failing to limit the subject matter of a previous claim.

The Examiner objected to Claim 8 because the phrase in parenthesis does not provide any meaningful limitation.

The Examiner rejected Claims 1-7 under 35 U.S.C. 102(b) as being anticipated by U.S. Pat. No. 4,754,486 to Stafford et al.

The Examiner rejected claims 8, 13 and 14 under 35 U.S.C. 102(b) as being anticipated by JP 408083090A by Obara.

The Examiner rejected claim 9 under 35 U.S.C. 103(a) as being unpatentable over Obara in view of U.S. Pub. 2002/0012291 to Robinett.

The Examiner rejected claims 10-12 under 35 U.S.C. 103(a) as being unpatentable over Obara in view of U.S. Pat. No. 4,991,126 to Reiter.

II. REPLY TO OFFICE ACTION

A. TRAVERSAL OF ART REJECTIONS

It is respectfully submitted that amended Claims 1-7 are not anticipated by the art of record and, in particular, U.S. Pat. No. 4,754,486 to Stafford et al. “A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference.” *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631; 2USPQ2d 1051,1053 (Fed. Cir. 1987); MPEP 2131.

In addition, the prior art reference(s) must teach or suggest all claim limitations in order to be used as the basis of an obviousness rejection. MPEP 2143.

Stafford et al. discloses an voice-activated (VOX) intercom circuit (specially adapted for use by a motorcycle rider and passenger) that is integrated into a stereo system which automatically compensates for wind noise so that both rider and passenger are not constantly having to adjust the sensitivity to compensate for wind noise. When the Stafford system encounters noise, the stereo system played in the ears of the rider and passenger, no change to the audio volume is made; however, when a voice is spoken into the microphone of the intercom circuit, the audio volume in the right ears of the rider and passenger is reduced by 50% and the audio volume in the left ears of the rider and passenger are muted to carry the sounds of the voice.

Stafford’s system accomplishes this by utilizing three filters to segregate sounds in the audio range entering the microphone into three frequency ranges. Many of the frequencies that appear as wind noise are relatively low frequency when compared to the human voice, and many other noises are relatively high frequency when compared to the human voice.

The Stafford system nominally sets the audio range for human voice between 500 Hz and 4kHz and segregates this range between the low end noise frequencies and the high end noise frequencies. Thus, at all times, means are provided whereby no absolute level of noise or speaking into the microphone will interject itself into the VOX intercom system. However, when an extremely loud noise is perceived which does have energy in the audio speaking range, the system permits the sound of the siren to activate the VOX intercom system so that the rider and passenger are permitted to hear the sounds.

In contrast with Stafford, Applicant's system claims a completely programmable detection circuit that can notify the user of any types of sounds; for example, the low frequency sound of a dog bark, the middle frequency sound of a telephone ringing, the high frequency sound of a tea kettle boiling, or the broad frequency sound of an emergency siren. Further, Applicant's system is programmable so that the user is provided with information as to what caused the sound. For example, a tactile warning can be activated when the system detects the dog bark, a green light can be activated when the system detects the telephone ringing, the audio system can be muted when the system detects the tea kettle whistles, and a red light can be activated when the system detects the emergency siren. By providing the user with more information (i.e., what is causing the sound), the user may make informed decisions as to how to handle the sounds (e.g., ignore the dog barking, feed the dog, investigate why the dog is barking, etc.) without interrupting what the user is doing. Other notification devices would just mute the audio generated by the stereo or other device in which the user is listening. In this manner, the user can decide whether to interrupt what they are listening to on the audio device in order to address the source of the noise.

The differences between Stafford's device and Applicant's claimed device are numerous.

The Stafford device is designed solely for a VOX intercom system. Applicant's device is designed to work with any audio unit (e.g., a radio, a cassette player, a portable dvd player, an mp3 player, a cell phone, etc.). The Stafford system ignores low frequency and high frequency sounds. Applicant allows a user to detect sounds in any audio range. The Stafford device only discloses one means of notifying the user(s), that is by decreasing the audio volume by 50% in one ear, muting the sound in the other ear and allowing the words of the speaker play in the channel that was muted. Applicant's claimed device allows multiple and varied notifications.

Since each and every element of Applicant's amended Claim 1 is not disclosed by Stafford, it cannot anticipate Applicant's Claim 1 or any claim that depends directly or indirectly from Claim 1 (including Claims 2-7, and 16-18). Moreover, Stafford does not teach or suggest using different and multiple notification means, nor does it teach or suggest allowing the user to program the device to allow sounds in the low frequency and high frequency bands to activate the device, Stafford cannot make obvious Applicant's Claims 1-7, and 16-18. Accordingly, the Examiner must withdraw his rejections based on Stafford.

Japanese Publication No. 408083090A to Obara discloses a safety apparatus for use by a disabled person. As with Stafford, Obara fails to disclose, teach or suggest Applicant's completely programmable detection circuit that can notify the user of any types of sounds around the user. Further, Obara fails to disclose, teach or suggest Applicant's programmable notification circuit that allows the user to program exactly how he should be notified for each of the sounds that are detected. Therefore, Obara alone cannot anticipate nor can it make obvious Applicant's amended Claim 8 or any claim that depends directly or indirectly from Claim 8 (including

Claims 13 and 14).

The Examiner has cited U.S. Publication No. 2002/0012291 A1 in the name of Robinett for its disclosure of a customization means for the notice circuit.

In order to establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation to modify the reference or to combine the teachings. Second, there must be a reasonable expectation of success. Finally, the prior art references must teach or suggest all claim limitations. MPEP 2143.

Robinett discloses a personal timing device. A person skilled in the art of safety apparatus may not look to Robinett as a solution to problems with safety devices. Moreover, there is no suggestion or motivation in either Obara or Robinett to modify their teachings or to combine their teachings. Accordingly, the combination of Obara with Robinett is impermissible.

In addition, even if, *arguendo*, the combination of Obara and Robinett is permissible, the combination still fails to disclose, teach or suggest Applicant's claimed programmable detector circuit. Therefore, the combination of Obara and Robinett cannot make obvious Applicant's Claim 8, or Claim 9 which depends directly from Claim 8.

With respect to the combination of Obara and Reiter, this combination also fails to disclose, teach or suggest Applicant's claimed programmable detector circuit. Therefore, the combination of Obara and Reiter cannot make obvious Applicant's Claim 8, or Claims 10 and 11 which depend from Claim 8 (Claim 12 having been cancelled).

In view of the above, the cited art either alone or in combination does not disclose, teach or suggest all of the elements claimed by Applicant's independent Claims 1 and 8. Therefore,

Claims 1 and 8 and all claims that depend from Claims 1 and 8 (including claims 2-7, 9-11 and 13-18, cannot be anticipated or made obvious by the cited art.

B. NON-ART MATTERS

Applicant has cancelled claim 12 without prejudice. Accordingly, the objection under 37 C.F.R. §1.75(c) is now moot.

Applicant has amended Claim 8 by deleting the phrase in parenthesis. Accordingly, Applicant believes Claim 8 is now in acceptable form.

III. CONCLUSION

Applicant amended independent Claims 1 and 8 in order to more clearly claim the patentable features of Applicant's invention. The art cited by the Examiner, either alone or in combination, does not disclose, teach or suggest all of the features and elements recited by Applicant's independent claims. Therefore, the art cited by the Examiner cannot anticipate or make obvious Applicant's claimed invention.

Should the Examiner have any questions regarding this application, he is invited to telephone the undersigned in order to expedite the examination procedure.

Enclosed is a self-addressed, postage pre-paid postcard for the U.S. Patent and Trademark Office to date stamp in order to acknowledge receipt of this communication.

Applicant believes that he has addressed all of the issues raised by the Examiner in the outstanding Office Action. In view of the above amendments and Remarks, Applicant

respectfully requests reconsideration of the present application and the early issuance of a Notice of Allowance for claims 1-11 and 13-18.

Respectfully submitted,

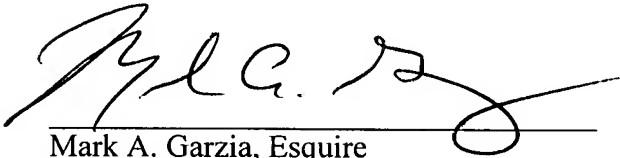
Kenneth A. Alley

Date: 23 AUGUST 2007

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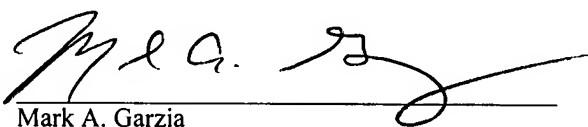
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CERTIFICATE OF MAILING

I hereby certify that this communication, along with any paper or fee indicated as being enclosed, is being deposited with the United States Postal Service as First Class Mail, postage prepaid, in an envelope addressed to Mail Stop AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on August 23, 2007.

23 AUGUST 2007

Date



Mark A. Garzia